

REMARKS/ARGUMENTS

Priority

The Examiner has noted that a certified copy of the Australian patent application, PQ 3029, needs to be submitted pursuant to 35 U.S.C. 119(b). A certified copy of the application is being submitted herewith.

Drawings

The Examiner has noted that Figures 2, 4, and 6 should have a Prior Art legend. The Examiner has also noted other drawing corrections are necessary. Corrected drawings are being submitted herewith.

Specification

The Examiner has stated that the application does not contain an abstract. Applicant believes that an abstract was submitted as page 15 of the original application. Applicant has submitted herewith a new abstract on a separate page which is to be placed after the Claims.

The disclosure was objected to due to repetitive language on page 11. The specification has been amended to remove the redundant language.

Claims

Claims 1-20 are pending in the application. Claims 1 and 20 have been objected to. Claims 1-20 have been rejected. Claims 1-20 have been canceled without prejudice to being resubmitted in a continuation application. New claims 21-40 have been submitted and no new matter has been added.

Claims 1 and 20 have been objected to due to informalities. Claims 1 and 20 have been canceled without prejudice. New claims 21-40 have been submitted and care has been taken to avoid similar informalities.

Claims 5-7 and 20 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. New claims 21-40 have been submitted and care has been taken to avoid similar problems.

Claims 1-14, 17 and 18 have been rejected under 35 U.S.C. 102(b) as being anticipated by Nunez et al. (USPN 5,800,514). Claims 1-14, 17 and 18 have been canceled without prejudice. New claims 21-40 have been submitted and applicant asserts that these claims are patentable over Nunez et al.

Nunez et al. discloses a woven tubular graft having non-linear shapes. However, Nunez et al. does not disclose a tubular graft having a first end which is angled such that when viewed in a vertical cross sectional plane, a portion of the tubular body extends outwardly longitudinally a distance greater than the remainder of the first end and wherein the first end has an opening that is non circular. Thus, applicant asserts that claims 21-35 are patentable over Nunez et al.

Furthermore, Nunez et al. does not disclose a method for delivering and emplacing an intraluminal device comprising determining the shape of at least a portion of a vessel of a patient by imaging and providing an intraluminal device having a pre-determined non-linear shape which corresponds to the shape of the vessel or vessel portion. Thus, applicant asserts that claims 36-40 are likewise patentable over Nunez et al.

Claim 19 has been rejected under 35 U.S.C. 102(b) as being anticipated by Fogarty et al. (USPN 5,800,520). Claim 19 has been canceled without prejudice. New claims 21-40 have been submitted and applicant asserts that these claims are patentable over Fogarty et al.

Fogarty et al. discloses a tubular endoluminal prosthesis having oblique ends. However, Fogarty et al. does not disclose a tubular body having a pre-determined non-

linear shape wherein the diameter of the tubular body is wider at the first end and wherein the first end is angled such that when viewed in a vertical cross sectional plane, a portion of the tubular body extends outwardly longitudinally a distance greater than the remainder of the first end and wherein the first end has an opening that is non circular. Although the Fogarty et al. device has oblique ends, it is essentially linear. Thus, applicant asserts that claims 21-35 are patentable over Fogarty et al.

Furthermore, Fogarty et al. does not disclose a method for delivering and emplacing an intraluminal device comprising determining the shape of a at least a portion of a vessel of a patient by imaging and providing an intraluminal device having a pre-determined non-linear shape which corresponds to the shape of the vessel or vessel portion. Thus, applicant asserts that claims 36-40 are likewise patentable over Fogarty et al.

Claim 20 has been rejected under 35 U.S.C. 102(e) as being anticipated by Khan et al. (USPN 5,928,258). Claim 20 has been canceled without prejudice. New claims 21-40 have been submitted and applicant asserts that these claims are patentable over Khan et al.

Khan et al. discloses a method and apparatus for loading a stent or stent-graft into a delivery sheath. However, Khan et al. does not disclose a method for delivering and emplacing an intraluminal device comprising determining the shape of a at least a portion of a vessel of a patient by imaging and providing an intraluminal device having a pre-determined non-linear shape which corresponds to the shape of the vessel or vessel portion. Thus, applicant asserts that claims 36-40 are patentable over Khan et al.

Furthermore, Khan et al. does not disclose a tubular body having a pre-determined non-linear shape wherein the diameter of the tubular body is wider at the first end and wherein the first end is angled such that when viewed in a vertical cross sectional plane, a portion of the tubular body extends outwardly longitudinally a distance

greater than the remainder of the first end and wherein the first end has an opening that is non circular. Thus, applicant asserts that claims 21-35 are likewise patentable over Khan et al.

Claims 15 and 16 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Nunez et al. in view of Fogarty et al. Claims 15 and 16 have been canceled without prejudice. New claims 21-40 have been submitted and applicant asserts that these claims are patentable over Nunez et al and Fogarty et al., either alone or in combination.

As discussed above, neither Nunez et al. nor Fogarty et al. disclose a tubular body wherein the diameter of the tubular body is wider at the first end and wherein the first end is angled such that when viewed in a vertical cross sectional plane, a portion of the tubular body extends outwardly longitudinally a distance greater than the remainder of the first end.

The device of Nunez et al. has a non-linear shape. But it does not disclose a widened first end that is angled. Having a widened, angled first end provides the present invention with the capability for the first end to be more securely attached to the vessel wall near the opening of an aneurysm (see the difference in Figs. 4 and 5 of the present application). The device of Fogarty et al. has a tapered end in order to reduce restenosis. However, it does not address the issue of graft attachment in the region of the vessel wall near an aneurysm. Thus, there would be no motivation to combine the tapered end of Fogarty et al. with the non-linear graft provided by Nunez et al. In the first place, any such combination would constitute impermissible hindsight.

Furthermore, the combination of Nunez et al. and Fogarty et al. would not even result in the device of the present invention. Assuming arguendo that the combination of Nunez et al. and Fogarty et al. would result in a non-linear graft having a tapered end, it still would not provide a graft having a widened and angled end that is capable of being more securely attached to the vessel wall near the aneurysm. Thus, applicant

asserts that claims 21-35 are patentable over Nunez et al. or Fogarty et al., either alone or in combination.

Furthermore, neither Nunez et al. nor Fogarty et al. disclose a method for delivering and emplacing an intraluminal device comprising determining the shape of a at least a portion of a vessel of a patient by imaging and providing an intraluminal device having a pre-determined non-linear shape which corresponds to the shape of the vessel or vessel portion. Thus, applicant asserts that claims 36-40 are likewise patentable over Nunez et al. or Fogarty et al., either alone or in combination.

For the foregoing reasons, applicant respectfully asserts that claims 21-40 are allowable and requests that a timely Notice of Allowance be issued in this case.

If the Examiner feels for any reason that direct contact with Applicant's attorney will advance the prosecution of this case to finality, the Examiner is invited to contact the undersigned at the number given below.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 50-1329.

Respectfully submitted,

Dated: 9/29/04



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PRE-SHAPED INSTRUMENTAL GRAFT

ABSTRACT

An intraluminal graft having a pre-determined substantially non-linear configuration is ideally suited for implantation within individuated aneurysmal regions, tortuous vessels or primarily non-linear vessels. The graft has a diameter at a first end that is wider than the rest of the graft and the first end is angled so that when it is viewed in a vertical cross sectional plane, a portion of the tubular body extends outwardly longitudinally a distance greater than the remainder of the first end. The first end also has a noncircular opening.

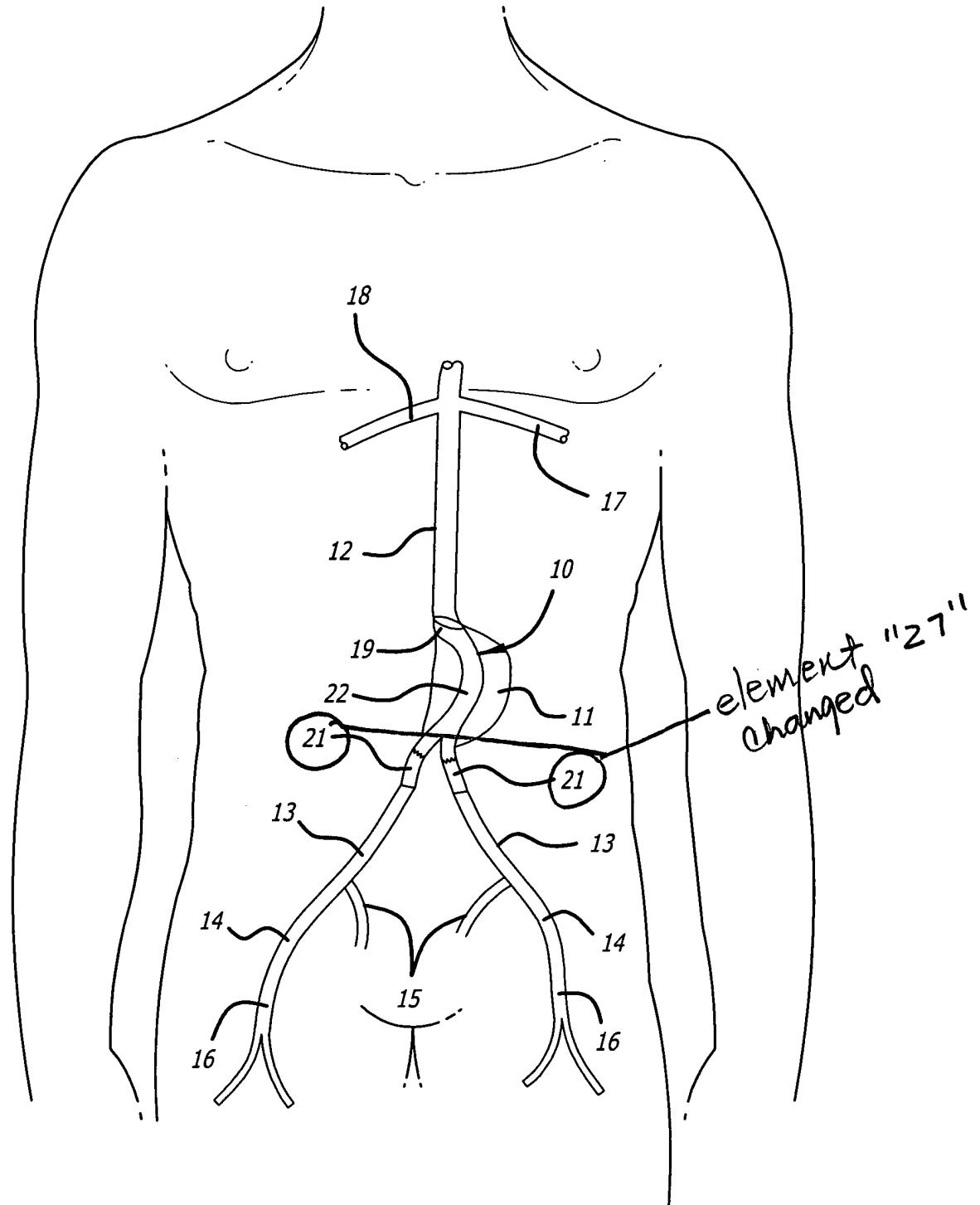
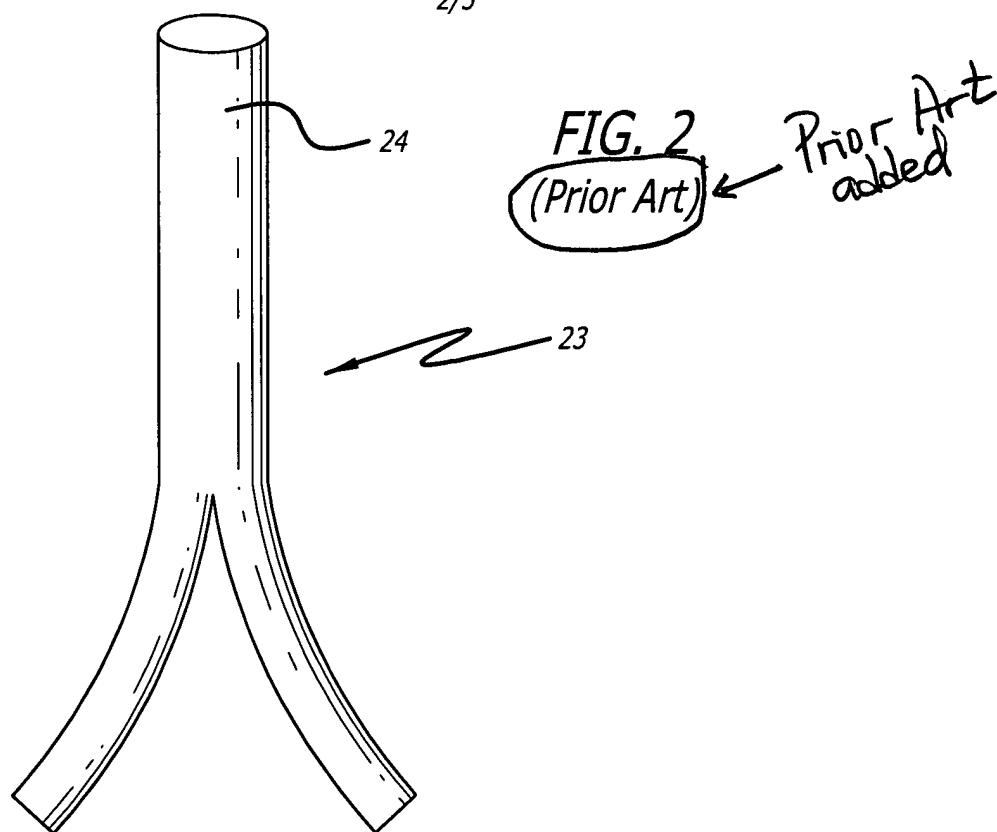


FIG. 1



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Prior Art
added

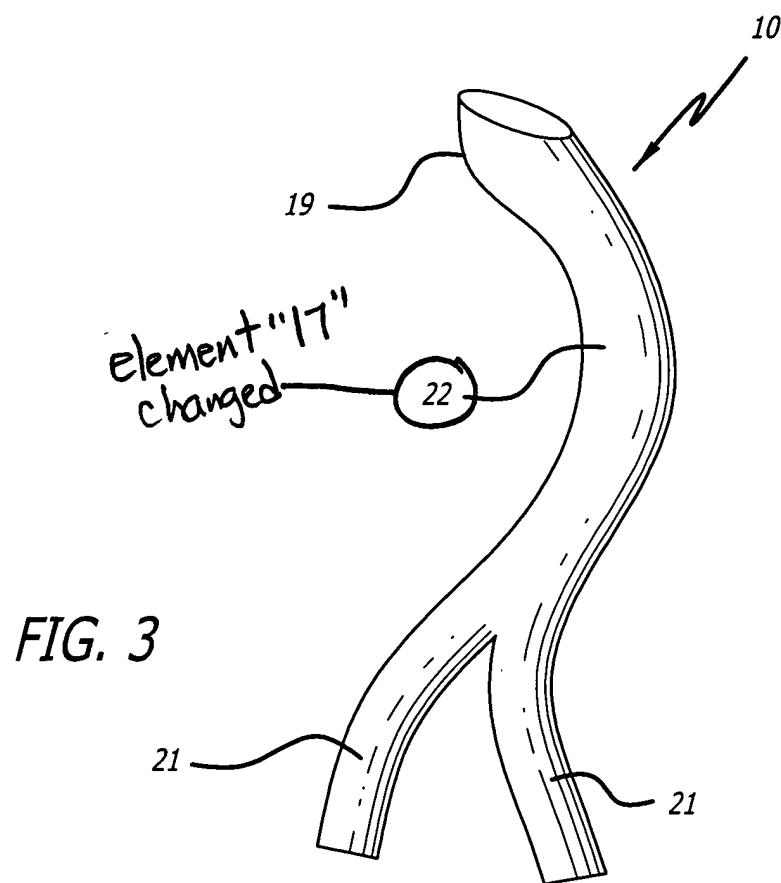
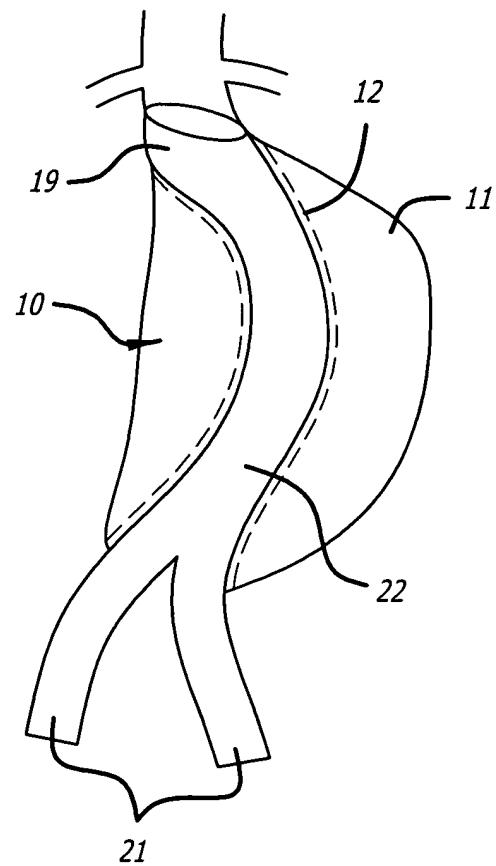
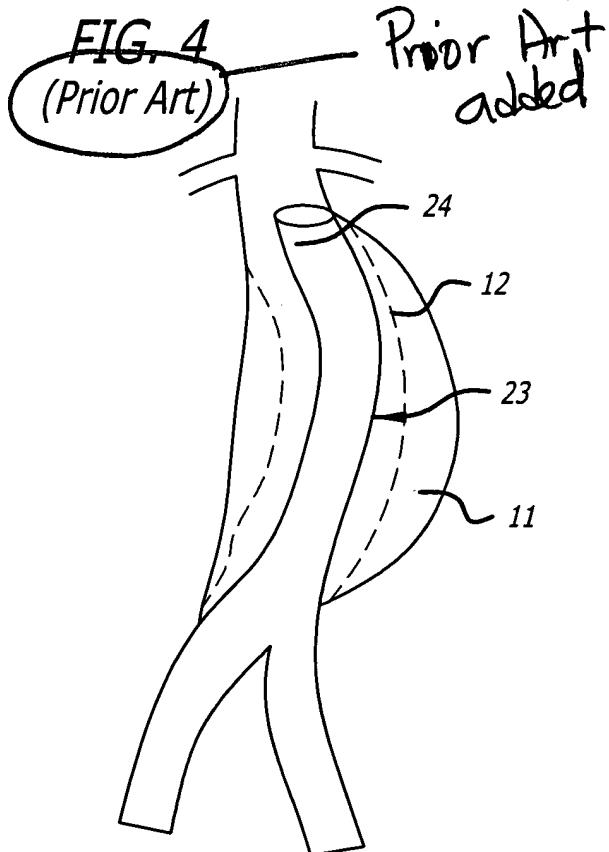


FIG. 3



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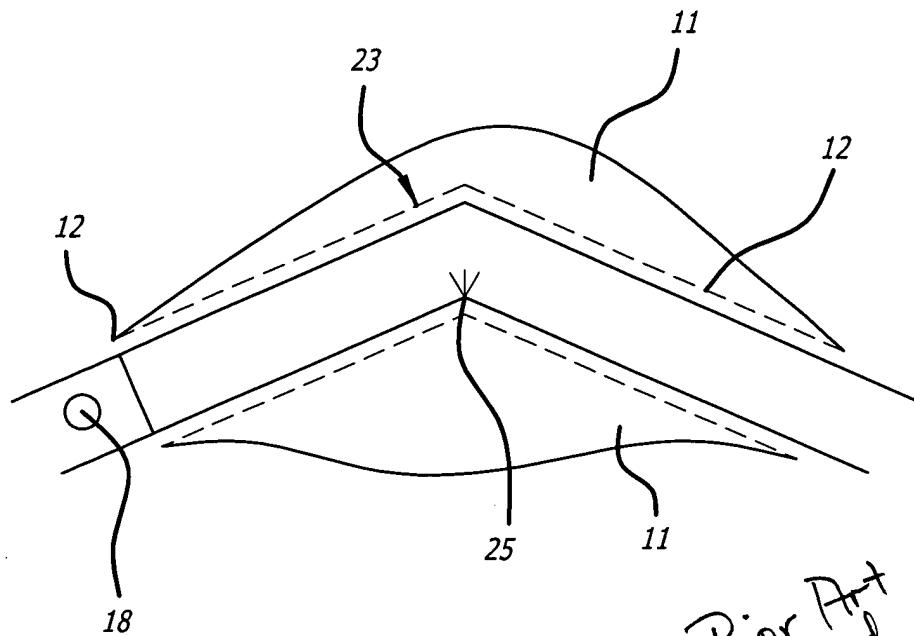


FIG. 6
(Prior Art)

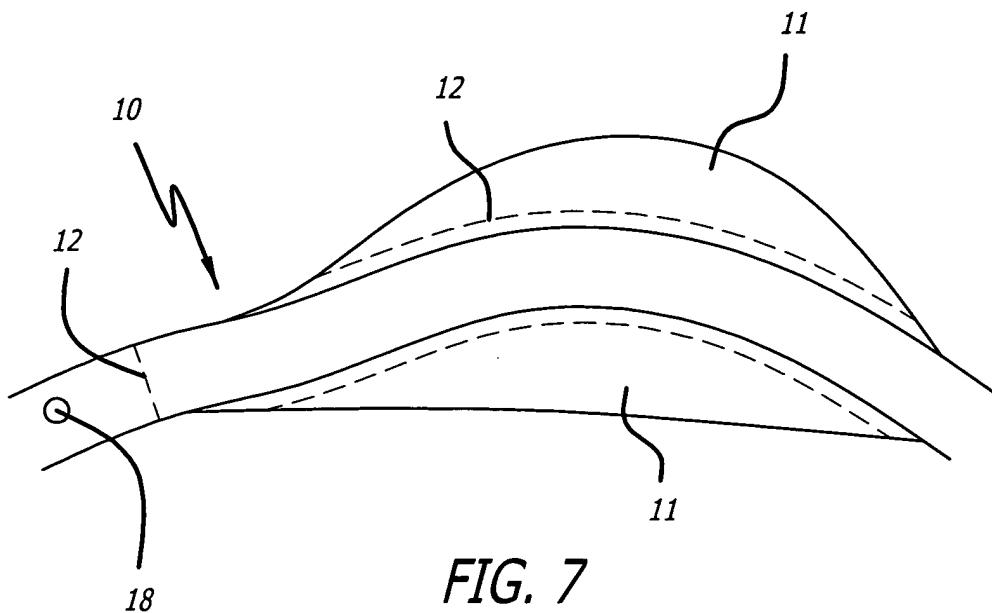


FIG. 7